UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

EMANUEL G. REED,

Petitioner, Case No. 05-C-395

v.

DANIEL BENIK,

Respondent.

OPINION AND ORDER

The Respondent has filed a motion to dismiss Emanuel Reed's petition for a writ of habeas corpus. The Respondent is bringing the motion pursuant to Federal Rule of Civil Procedure 12(b)(6) and the Petitioner is proceeding *pro se*. The movant has presented matters outside the pleadings, but the Respondent has not complied with Civil Local Rule 56.1(b). Therefore, the court ORDERS that the "Motion to Dismiss Petition for Writ of Habeas Corpus" (filed May 5, 2005) IS DENIED without prejudice.

IT IS ALSO ORDERED that the "Motion to Stay Time for Filing Answer to Petition for Writ of Habeas Corpus Pending Disposition on Respondent's Motion to Dismiss" (filed May 5, 2005) IS DENIED.

Done and Ordered in Chambers at the United States Courthouse, Milwaukee, Wisconsin, this 5th day of May, 2005.

s/ Thomas J. Curran
Thomas J. Curran
United States District Judge